

## CHAPTER 4. PROHIBITED PRACTICES; SANCTIONS

### §423. Check-cashing facility; location of business limited

- A. No license shall be granted for the operation of a check-cashing facility which will be situated within three hundred feet or less of any official gaming establishment or designated docking facility of a riverboat licensed to conduct gaming activities or gaming operations pursuant to Chapter 4 or 5 of Title 27 of the Louisiana Revised Statutes of 1950. As to official gaming establishments, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the official gaming establishment to the nearest point of the facility. As to docking facilities, this distance shall be measured in a straight line from the nearest point of the docking facility to the nearest point of the check-cashing facility.
- B. The subsequent construction, erection, development, or movement of an official gaming establishment or designated docking facility which causes a check-cashing facility to be located within the prohibited distance shall not be cause for revocation, withholding, denial, or nonrenewal of a license.
- C. For purposes of this Section, "check-cashing facility" means a facility whose primary business is the cashing of checks, drafts, money orders, or travelers checks for a fee. The term does not include a bank, trust company, savings bank, savings and loan association, or credit union.
- D. The provisions of this Section shall not apply to an individual, partnership, unincorporated association, or corporation that charges no fee to the presenter or payor for the cashing of a check, draft, money order, or traveler's check.

## CHAPTER 12. CURRENCY EXCHANGE SERVICES

(Current through 2004 Regular Session Acts)

### §1001. Title

This Chapter shall be known and may be cited as The Louisiana Check-Cashing Law.

### §1002. Definitions

For the purposes of this Chapter:

- (1)(a) "Check-casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.
- (b) "Check-casher" does not mean either one of the following:
- (i) An individual, partnership, unincorporated association, or corporation that charges no fee to the presenter or payor for the cashing of a check, draft, money order, or traveler's check.
- (ii) An individual, partnership, unincorporated association, or corporation that cashes a check, draft, money order, or traveler's check, or other commercial paper if the fee charged does not exceed two dollars and the currency exchange is incidental to the person's primary business.
- (2) "Commissioner" means the commissioner of financial institutions.
- (3) "Currency exchange" means the cashing of checks, drafts, money orders, or traveler's checks, or other commercial paper serving the same purpose by a check-casher.
- (4) "Licensee" means a check-casher licensed by the commissioner to engage in business in accordance with this Chapter.

### §1003. License; certificates

Beginning January 1, 2000, a person engaging in currency exchange shall obtain a license from the commissioner. A person may engage in such business at more than one location with one license. The commissioner shall issue a certificate for each currency exchange location in addition to the license.

### §1004. Application for license

- A. An applicant shall submit a written application to the commissioner on an application form provided by the commissioner.
- B. The application form shall provide space for and require disclosure of the following information:
- (1)(a) If the applicant is an individual, the full name and address of the individual's residence and principal place of business.
- (b) If the applicant is a partnership or association, the full name and address of every member's residence and of the principal place of business of the partnership or association.
- (c) If the applicant is a corporation, the corporation's full name and business address of the corporation's principal place of business and the full name and residential address of each of the officers of the corporation.
- (2) The name of the currency exchange operation.
- (3) The street address of each currency exchange location operated by the applicant.

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- (4) The applicant's occupations or professions for the ten years preceding the date of application.
  - (5) The applicant's present and previous activities in currency exchange services in Louisiana or any other state.
  - (6) A criminal history disclosure on the applicant.
  - (7) The nature of business conducted at any location to be issued a certificate.
- C. If the applicant is a partnership, association, or corporation, the information required by Paragraphs (4), (5), and (6) of Subsection B of this Section shall be supplied for each partner, officer, and director, as appropriate.

#### **§1004.1. License fees**

- A. The applicant shall pay to the commissioner a nonrefundable application fee of three hundred fifty dollars with the initial application.
- B.(1) The licensee shall pay an annual license renewal fee of two hundred fifty dollars on or before the first day of December of each year for a license to engage in currency exchange during the following calendar year.
- (2) If the commissioner has not received the annual renewal fee from a licensee by the sixteenth day of January, as determined by the postmarked date, he shall notify the licensee by United States mail and assess a late fee of one hundred dollars.
- (3) If the commissioner has not received the annual renewal fee and late fee by March thirty-first, the license to engage in currency exchange and all certificates issued for currency exchange locations shall lapse without a hearing or notification, and the license and certificates shall not be reinstated. However, the person whose license and certificates have lapsed may apply for a new license and certificates.

#### **§1004.2. Civil penalties**

- A. The commissioner, in addition to or in place of suspension or revocation of a license, may fine up to five hundred dollars for each violation any person who violates any provision of this Chapter.
- B. The commissioner may maintain a civil action in a court of competent jurisdiction to recover such fines, together with any costs and attorney fees incident to such action.

#### **§1005. Qualifications**

The commissioner shall evaluate the financial responsibility, financial condition, business experience, and the character and general fitness of the applicant. The commissioner may investigate and consider the qualifications of officers and directors of an applicant to determine whether this qualification has been met.

#### **§1006. Approval or denial of application**

- A. No later than the sixtieth day after the date an application has been submitted, the commissioner shall approve or deny the application and so notify the applicant.
- B.(1) The commissioner shall issue a license to the applicant and a certificate for each currency exchange location if the application has been approved, the qualifications have been met, and the requisite fees have been paid.
- (2) If the commissioner denies the application, the commissioner shall notify the applicant in writing of the reasons for denial and shall indicate the day upon which a hearing pursuant to the Administrative Procedure Act will be held.
- (3) An applicant may appeal the decision of the commissioner pursuant to the Administrative Procedure Act.

#### **§1007. Change of name or location**

- A. If a licensee changes the name or location of any of its currency exchange locations or adds a new currency exchange location, the licensee shall surrender the certificate for such location changed and apply for a certificate for any new location.
- B. The application shall include any location with new names and any added currency exchange locations.
- C. If the application is approved, the commissioner shall issue a certificate for the new location or locations.

#### **§1008. Suspension or revocation of license; hearing; surrender of license; administrative fines**

- A. The commissioner may suspend or revoke any license if the commissioner determines any one or more of the following has occurred:
- (1) The licensee, or any officer or director of a corporate licensee, has violated any provision of this Chapter.
  - (2) The licensee or any officer or director of a corporate licensee has violated any provision of law which would indicate that the person is untrustworthy or is not qualified to operate a currency exchange, such as acts of fraud, misrepresentation, and other similar acts.
  - (3) The commissioner discovers facts that existed when the initial or renewal application for the license was made which would have warranted denial of the license.
  - (4) The licensee has failed to pay a fine assessed pursuant to this Chapter.

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- B.(1) A license shall not be suspended or revoked or a fine assessed until after a hearing.
- (2) The commissioner shall give the licensee not less than twenty days from the mailing of written notice by certified mail, addressed to the principal place of business of the licensee, of the time and place of hearing.
- (3) Any order of the commissioner suspending or revoking a license or assessing a fine shall state the grounds upon which the suspension, revocation, or fine is based and shall state an effective date for the suspension or revocation, or a date by which the fine shall be paid.
- C.(1) A suspended or revoked license shall be surrendered by the licensee along with all location certificates to the commissioner in person or by first class mail within seven calendar days of the effective date of the suspension or revocation.
- (2) The surrender shall not affect the licensee's civil or criminal liability for acts committed before the surrender, nor shall the surrender affect the liability on the bond required by this Chapter.
- (3) The licensee shall not be entitled to a refund of license fees paid.
- D. Each transaction in violation of a provision or requirement of this Chapter shall constitute a separate violation.

#### **§1009. Regulation of fees; unreasonable fees; display of fees**

~~A. If a check presented for cashing is issued by or drawn upon the account of a public welfare or public assistance agency of the United States, the state of Louisiana, or any political subdivision of the state, then no check-casher licensed or regulated under this Chapter may charge, or collect in any manner, a sum in excess of two percent of the total amount of the check presented for cashing.~~ Notwithstanding any other provision of law to the contrary, no check-casher licensed or regulated under this Chapter shall directly or indirectly charge or collect fees or other consideration for rendering currency exchange services in excess of the following:

(1) Two percent of the total amount of the check presented for cashing or five dollars, whichever is greater, for checks issued by or drawn upon the account of a public welfare or public assistance agency of the United States, the state of Louisiana, or any political subdivision of the state.

(2) Ten percent of the total amount of the check presented for cashing or five dollars, whichever is greater, for all other checks or for money orders.

B. All fees charged by a licensee for rendering currency exchange services shall be prominently displayed on the premises of the currency exchange location in such manner as the commissioner requires.

#### **§1010. Bonding requirements**

~~A. The commissioner shall require a surety bond of each licensee prior to the issuance or renewal of the license. The bond shall be issued by a bonding company or insurance company authorized to do business in Louisiana. The minimum amount of the bond required on the first issuance of a license shall be twenty-five thousand dollars.~~

~~B. In lieu of such corporate surety bond, or of any portion required by this Section, the applicant may deposit with the commissioner, as such applicant may designate and the commissioner may approve, cash or securities of not less than the amount of the required corporate surety bond, or any portion of it, based upon the principal amount or market value, whichever is lower, consisting of one or more of the following exclusively enumerated unencumbered items:~~

~~(1) Cash.~~

~~(2) Certificates of deposit.~~

~~(3) Stocks and interest-bearing bonds acceptable to the commissioner.~~

~~(4) Notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, guaranteed by either the United States, the state of Louisiana, a city, parish, town, village, school district, or other political subdivision of this state which has been authorized by the constitution, statute, or ordinance to levy and collect taxes.~~

~~C. The cash or securities authorized by Subsection B of this Section shall be placed by the commissioner in escrow in a federally insured Louisiana depository institution, either state or federally chartered, as provided for in Subsection B of this Section, to secure the same obligations as would the corporate surety bond. The licensee shall be entitled to receive all interest and dividends on the cash or securities placed in escrow. In addition, the depositor shall have the right, subject to the approval of the commissioner, to substitute other securities of the kind or type enumerated in Subsection B of this Section, for those previously deposited.~~

~~D. The depositor shall be required to substitute other or additional cash or securities of the kind or type enumerated in Subsection B of this Section when required to do so by written order of the commissioner for good cause shown.~~

#### **§1011. Powers; limitations; prohibitions**

A licensee shall not accept money or currency for deposit or act as bailee or agent for any person to hold money or currency in escrow for others for any purpose. However, a licensee may act as agent for a person licensed under the Sale of Checks and Money Transmission Act, Chapter 13 of this Title.

**§1012. Violations; criminal penalties; civil liability**

A. A violation of any provision or requirement of this Chapter is a misdemeanor and shall be punishable by a fine of not less than two hundred and fifty dollars but not more than five hundred dollars, imprisonment for a term of not more than six months, or both. Each transaction in violation of any provision or requirement of this Chapter shall constitute a separate offense.

B. The commissioner, through an administrative action or the district attorney of any judicial district, may maintain an action to enjoin violations of this Chapter.

C. Costs and reasonable attorney fees shall be awarded to the commissioner or a district attorney in all injunctive actions when the commissioner or district attorney successfully enforces this Chapter.

**§1013. Books of account; examinations**

A. The licensee shall maintain sufficient books, accounts, and records that will enable the commissioner to determine if the licensee is complying with the provisions of this Chapter and with the rules adopted by the commissioner.

B. A licensee shall preserve the books, accounts, and records for at least two years after making the final entry.

C.(1) The commissioner, through his employees, may examine the records of a licensee at any time during normal business hours without prior notice.

(2) If the licensee's records are located outside this state, the licensee, at the commissioner's option, shall make them available to the commissioner at a location within this state convenient to the commissioner, or pay the reasonable and necessary expenses for the commissioner or his representatives to examine them at the place where they are maintained. The commissioner may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

**§1014. Rules and regulations**

The commissioner shall promulgate such rules and regulations as he deems necessary to administer and enforce this Chapter, pursuant to the Administrative Procedure Act.

**§1015. False advertising**

A. A licensee may not advertise, print, display, publish, distribute, or broadcast any statement or representation that is false, misleading, or deceptive or that omits material information.

B. A licensee shall post accurate information concerning the check-cashing fees or percentages charged in a prominent location on the premises.

**§1016. Applicability**

This Chapter shall not apply to any bank, trust company, savings bank, savings and loan association, or credit union.